



August 23, 2019

The Honorable Ajit Pai, Chairman  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: Comments on Third Further Notice of Proposed Rulemaking (“TFNPRM”) Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor  
[CG Docket No. 17-59; WC Docket No.17-97; FCC 19-51]

Chairman Pai:

R1 RCM Inc. (“R1”), a leading provider of technology-enabled revenue cycle management services to healthcare providers, respectfully submits the below comments in response to the proposed rulemaking in the matter of protecting consumers from illegal robocalls while preserving the voice channel for critical communications.

R1 manages over \$33 billion of net patient revenues on behalf of healthcare clients, including health systems, hospitals, physician groups, as well as private and governmental emergency medical service providers. R1 represents over 750 healthcare clients across all service lines and handles over 60 million patient encounters per year. While R1 is not a provider of healthcare services, R1 manages a significant portion of the patient experience through telephonic communication with patients on behalf of its clients. These telephonic communications include services that support and empower patients to make informed decisions about their healthcare. In providing said services, R1 is committed to ensuring:

- **Access to Healthcare**—scheduling patient services; providing service-related medical instructions; authorization assistance; appointment reminders; medical records; and, customer service.
- **Affordable Healthcare**—counseling patients on cost of services; payment plans and other payment options; insurance coverage and expected out of pocket payments; and, charity care and financial assistance availability.

A cornerstone of the White House’s healthcare policy is empowering patients with information related to their healthcare to drive better outcomes. Federal agencies have been asked to eliminate any federal rules or policies that create barriers to this initiative.<sup>1</sup> R1 requests that the Commission carefully consider and develop rules that support, not undermine, the White House’s policies on consumer-driven healthcare reform by ensuring calls are never blocked when made by Health Insurance Portability and Accountability Act (“HIPAA”) covered entities (healthcare providers or “providers”) and their business associates in providing important healthcare information.

### **Safe Harbor for Call-Blocking Programs Based on Potentially Spoofed Calls**

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<sup>1</sup> U.S. DEPT. OF HEALTH & HUMAN SERVS. ET AL., REFORMING AMERICA’S HEALTHCARE SYSTEM THROUGH CHOICE AND COMPETITION (2018), at 94-106.

### *Blocking Calls that Fail Caller ID Authentication*

The Commission proposed a safe harbor for Voice Service Providers (“VSP”) that choose to block calls that fail Caller ID authentication under the SHAKEN/STIR framework and expects the “vast majority of these calls to be illegitimate.” R1’s view is that the efficacy and accuracy of the SHAKEN/STIR framework has not been fully implemented or tested. While the Commission may *expect* the majority of calls to be illegitimate, the extent of deleterious call blocking of legitimate calls is unknown. Further, SHAKEN/STIR authentication results do not reliably correlate to legality of the call or the intent – malicious or otherwise – of the caller. **R1 urges the Commission to require that any VSP wishing to avail itself of the proposed safe harbor must also undergo regular audits of the accuracy of their call blocking program, specifically to identify whether the implementation of the framework has resulted in blocking of legitimate calls.** The results of these audits should be made available to the Commission to inform policymaking that minimizes harm to HIPAA covered entities (healthcare providers), business associates and, most importantly, patients.

The Commission requested comments as to how it should address false positives. R1 supports the Commission promulgating rules that would provide for the prevention, detection and resolution of false positives. R1 is concerned there is no requirement for a process or mechanism to identify or detect false positives or provide reasonable assurance false positives will be prevented under the SHAKEN/STIR framework. **R1 urges the Commission to require that any VSP wishing to avail itself to the proposed safe harbor must:**

1. Undergo regular audits designed to detect false positives;
2. Establish controls and monitor those controls to prevent false positives;
3. Demonstrate reasonable efforts to remediate false positives; and
4. Failure to investigate reports of false positives within a specified time period (such as 30 days) and remediate the errant call blocking promptly should disqualify the VSP from such safe harbor protection.

The Commission inquired as to whether there are specific notification requirements or other procedures that are most appropriate for use to enable callers to correct such false positives quickly. The Commission also sought comment on whether to require providers seeking a safe harbor to provide for identifying and remedying the blocking of wanted calls. SHAKEN/STIR does not determine – or currently provide for – the identification of an authenticated calling party. The Commission should require that a VSP availing itself of such a safe harbor must establish and adhere to clear policies, procedures and timelines for remediating erroneously blocked calls and texts. If VSPs are to enjoy safe harbor protections, they must not do so to the detriment of lawfully placed calls to consumers, especially for important healthcare information. **R1 urges the Commission to require that any VSP wishing to avail itself of the proposed safe harbor must:**

1. Provide immediate notification to healthcare providers and representatives calling on their behalf when a call is blocked;
2. Provide information to the caller on how to rectify errant call blocking determinations including a point of contact;
3. Provide a mechanism to challenge the call blocking determination at no cost to the caller;
4. Provide swift correction of errant call blocking; and

5. In event of a dispute as to whether the blocking was erroneous, a blocked party may seek administrative review by filing a petition for declaratory ruling with the Commission.<sup>2</sup>

The Commission inquired whether there are any protections that it should establish for a safe harbor to ensure that “wanted calls are not blocked.” R1 agrees that the Commission should establish protections in such a safe harbor to ensure illegal calls are blocked. However, R1 expresses concern over the Commission’s standards of protections pertaining to “wanted” calls and encourages the Commission to establish protections for *legal* calls. “Wanted” is an imprecise, vague and ambiguous standard which the Commission has not defined. **R1 urges the Commission to establish protections for legal calls and prohibit the blocking of calls pertaining to important healthcare information.**

#### *Use of SHAKEN/STIR-Based Analytics*

The Commission sought comments on the use of SHAKEN/STIR-based analytics once this technology is implemented. Each VSP uses its own analytics based on VSP traffic, calling bursts, etc. The protocol does not identify the entity behind the call for the vast majority of legal entity (“Calling Party”) outbound communications. While the Commission has stated that analytics are to be “applied in a non-discriminatory, competitively neutral manner,”<sup>3</sup> it has not required a policy or rule that would effectuate such a mandate. The parties in the best position to identify discriminatory and anti-competitive analytical parameters are callers. **Therefore, R1 encourages the Commission to require VSPs to:**

1. Provide immediate notification to callers of blocked calls;
2. Publish and update in real-time the analytical rules and standards that VSPs use to determine which calls are blocked;
3. Make available for review and provide data to support the accuracy and efficacy of such call blocking analytical rules and standards (e.g., that blocked calls are in fact illegitimate); and
4. Develop a caller “white list” program in which healthcare providers and those calling on their behalf are confirmed as legitimate and excluded from call blocking.

#### **Protections for Critical Calls**

R1 agrees with the Commission that emergency calls must never be blocked.<sup>4</sup> The Commission considered whether VSPs that offer call-blocking must maintain a “Critical Calls List” of numbers it may not block, including government emergency numbers. R1 agrees that VSPs that offer call blocking must maintain a “Critical Calls List.” **R1 urges the Commission to require that VSPs offering call blocking must maintain a “Critical Calls List” and that HIPAA covered entities (healthcare providers) and their business associates calls placed by these entities should be classified as Critical Calls. VSPs should avoid blocking calls about critically important healthcare information, including, but not limited to:**

1. The provision of medical treatment;
2. Health checkups;
3. Appointments and reminders;
4. Insurance coverage and eligibility;
5. Cost of services and payment details and options;

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<sup>2</sup> Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor, 84 Fed. Reg. 29,388 (FCC Declaratory Ruling, June 24, 2019), at ¶ 12.

<sup>3</sup> *Id.*, at ¶9.

<sup>4</sup> TFNPRM, 84 Fed. Reg. 121, 29480 (proposed June 27, 2019) (to be codified at 47 C.F.R. Part 64), at ¶11.

6. Lab test results;
7. Pre-operative instructions;
8. Post discharge follow-up calls;
9. Notifications about prescriptions;
10. Home healthcare instructions;
11. Charity care and financial assistance;
12. Financial information; and
13. Hospital pre-registration instructions.

The Commission sought comments on what numbers should be required on a Critical Calls List and whether the Commission's proposal captures the most important numbers to avoid blocking. R1 believes the Commission's support in including HIPAA covered entities (healthcare providers) and their business associates as Critical Call is necessary to achieve the White House's policy of healthcare reform through consumer-driven healthcare. **R1 encourages the Commission to support the White House's policy on consumer-driven healthcare and include calls made by HIPAA covered entities (healthcare providers) and their business associates as a Critical Call.**

The Commission sought comments on limiting the Critical Calls List protections to only those calls for which the Caller ID is authenticated. In light of the evolving technology related to authentication, R1 is concerned that patients may be subjected to grievous harm if calls pertaining to important healthcare information are blocked because the number was not authenticated even if it was a Critical Call. **R1 urges the Commission to adopt clear guidance prohibiting call blocking of HIPAA covered entities (healthcare providers) and their business associates and any other Critical Calls, irrespective of whether the call was able to be authenticated.**

The Commission sought comments on other ways to protect callers from erroneous blocking and whether the Commission should consider other bases for "blocking unwanted, illegal calls." R1 is concerned that policy discussions are centered around the bases for blocking calls without the benefit of guidance pertaining to what calls *may not be blocked* specifically as it relates to legal calls placed by HIPAA covered entities (healthcare providers) and their business associates. **R1 urges the Commission to adopt clear guidance that prohibit call blocking of HIPAA covered entities (healthcare providers) and their business associates.**

Thank you for your attention to this important issue, as R1 supports the Commission's work on and commitment to protecting consumers. Should you have any questions, please do not hesitate to contact R1 at [RegulatoryCompliance@R1RCM.com](mailto:RegulatoryCompliance@R1RCM.com).

Sincerely,



Amber Thomas  
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